COMMENTS ON SPEECHES OF WILLIAM DIAMOND AND KINGMAN BREWSTER, JR., BEFORE REGIONAL CONFERENCE ON PROBLEMS OF FOREIGN TRADE AND INVESTMENT

STANLEY D. METZGER*

The job of a commentator is a thorny one. He never has the time to make a speech, even if he is disposed to, and, in addition to that, he is not supposed to.

I was very much interested in both the main speeches this morning. I thought that they gave a valuable outline of the major problems that bedevil us in the matter of economic development. I agree with the major theme of both the statements. The major force in the world today, in terms of economic development, is the awakened desire for it and a renewed determination to get it on the part of the under-developed countries, without too much concern on their part as to the methods they will employ.

I think that their approach has become one of relative indifference to ideological concerns about how to get the development that they need. True, some of them are strongly influenced by ideologies and consequently, are biased in certain directions, but even in countries where those kinds of influences are prevalent, there seems to be a growing tolerance of non-governmental methods if they will get the job done. These countries have recently come into independence under a nationalistic drive which had built in it a strong movement for economic betterment. It is a difficult, I think, to answer generally the question of what was the dominant motive in their desire to be free and independent of their particular mother countries, but I would be surprised if you didn't find that the desire for economic betterment was a very strong factor, if not the dominant one, in case after case. In any case these new governments of newly-independent countries have got to deliver to their people. The delivery to their people takes the form of getting investment, whether public, private or whatever, so long as they can increase the flow of goods and services produced in the country and coming in from abroad and keep their head above water, economically, at the same time. As a result, there has been a notable lack of steam behind the speeches which a great many of these countries feel forced to make in various international bodies, recalling the days of robber barons and depredation which took place in the 19th Century and part of the early 20th Century. They have recognized, I think, that private foreign investment today is in business for the long haul, and they are also cognizant of their own changed circumstances. Their confidence is greater, flowing from their new independence and their ability to govern themselves with a good deal more strength than earlier, and their realization of their improved bargaining position, by being wooed by the East and

* Assistant Legal Adviser for Economic Affairs, United States Department of State, Washington, D. C.

the West and being able to play one off against the other in order to satisfy their inhabitants' needs.

These factors have resulted, I think, in a moderation of the antipathy to foreign investment on the part of the underdeveloped areas. There is an increased feeling abroad that arrangements for the entry of foreign capital can be managed. We have noticed it in our ability to negotiate friendship, commerce and navigation treaties with such underdeveloped areas as Iran, Nicaragua and Haiti, all within the last yer. These draft treaties, in the case of Nicaragua and Haiti, provide for a treaty right for American business to enter and set up subsidiaries and branch plants. It is questionable whether such treaties could have been negotiated five years ago, or ten years ago. Then, too, there has been the willingness of 30 countries to conclude with us investment guaranty agreements, under which we pay to an investor any losses on his investment due to expropriation of his property or inconvertibility of his earnings—where the investment has been approved by the foreign government. Twenty-six of these agreements relate both to expropriation and inconvertibility. Under these agreements the foreign country recognizes the subrogation of the United States to the claim of the investor whom we have paid, and agrees to settle the claim with us by negotiation or international arbitration, if necessary. These agreements would have been much more difficult to negotiate in the atmosphere of five or ten years ago than they are today.

In short, there is greater receptivity today to private investment. There is also an intense desire for public investment. I am afraid I disagree with Professor Brewster in the sense that the deficiency in pride which may be involved in accepting public investment does not seem to have shut off the applications that are received in Washington, either by the International Bank or by the Export-Import Bank. Further, so far as public opinion in the United States is concerned, I rather think that he overplayed the idea that there is antipathy within the United States for public investment abroad, at least in the form of Export-Import bank loans. Just two years ago, Senator Capehart's investigation of the Export-Import Bank led to a revision of its charter with greatly increased authority—monetary authority—and with a specific recognition of the Bank's authority to engage in long-term investments for development purposes to a greater extent than had been done before. A unanimous committee report of this kind does not bespeak to me any deep seated feeling on the part of the American people against the public loan technique in the economic development field.

What I missed from both the speeches more than anything, I think, was the emphasis on investment and the failure to devote much attention to the foreign trade sector. In terms of its importance to the U. S. economy, the removal of artificial barriers to the increased flow of goods and services across national boundaries is much more important relatively than foreign investments as such. Our ability to move our excess wheat, cotton, soy-beans, lard, etc., and our excess industrial commodities looms much larger in terms of the prosperity of the American people than does even the doubling of American private investment abroad. It is in this field, too, that you have the pervasive government participation which Professor Brewster mentioned. The trade agreements program is the chosen instrument by which the government has performed this function. We have undertaken tariff reductions on a mutual and reciprocal basis with 35 countries over a long period of years, tariff reductions which have been a material help in opening the American market to foreign goods securing thereby increased foreign exchange to the foreign country with which to purchase our goods and increase prosperity all round. We are now seeking to realize more fully on the benefits which we have secured in those negotiations by improving the administration of the General Agreement on tariffs and trade. The full benefits of the tariff reductions which we have negotiated have often beeen frustrated—in terms of the expectation of the larger trade that we expected might come therefrom—by devices such as balance of payments quota restrictions by other countries. We have recognized that those quota restrictions have been necessary because they have been in bad shape financially; in the past they simply did not have the wherewithal to permit an unrestricted outflow of dollars. But conditions have improved, with a high level of economic activity in both the United States and in foreign countries, and we are now coming to the time when, under pressure from us, many of these quotas can be lifted, and we can expand our foreign markets.

This movement towards removing artificial barriers—the blocks on expanding foreign trade, in economic terms seems to me to be of considerably greater importance than increased foreign investment, without in any way denying the importance of foreign investment itself. And it is in this field that the lawyer has a peculiar role because here there is a conflicting set of American interests; you have Americans as exporters and importers, and you have Americans as producers who want to preserve a domestic market to themselves. It is in this field that one finds devices such as escape clauses, peril points and the like—all the mechanisms in the trade agreements program on the domestic level designed to deal with this conflict of domestic interests. These areas of government activity, which involve the lawyer heavily, are of growing importance.

The problem of economic development, as Mr. Diamond correctly pointed out, has many fronts and one cannot proceed on one front to the neglect of others.

The United States Government, in the past, has responded to the challenge of foreign investment and foreign trade in a manner which far exceeds what any unbiased observer would have judged would have been possible ten years ago. This response has indicated a maturity on the part of the American people, acting through their Government, which, in my judgment, is unmatched for any nation in any single period in history. It seems inconceivable, with the challenge increasing, that the response will not be as generous and sensible in the future.